In the High Court of Uttaranchal, at Nainital.

Criminal Appeal No. 1548/2001
(Old No. 1240 of 1997)

Mahant Ashok Prapauna Sharma
Chela of Mahant Pausu Ram Mahant and
Gaddi Nashin Mandir Shri Bharatji Maharaj
Rishikesh District Dehradun… Appellant.

Versus

1- State of U.P.
2- Swaroop Singh S/o Gulab Singh
R/o Mayankund Chaudeshwar Marg,
Rishikesh, Dehradun … Opposite Parties.

(Hon'ble B.C. Kandpal, J.)

List has been revised. None has appeared on behalf of the appellant.

2- Heard learned counsel for the State and perused the record.

3- This appeal has been preferred against the judgment and order dated 3-3-1997 passed by Civil Judge (J.D.) Rishikesh in case No. 2264/1988 Mahant Ashok Versus Swaroop Singh U/S 447 I.P.C. P.S. Rishikesh, District Dehradun, by which the trial court acquitted the Prapauna accused Swaroop Singh for the charge U/S 447 I.P.C.

4- The appellant filed a complaint with the allegation that Khasra No. 276/1/1 situated in Rishikesh is owned by Bharat Mandir Rishikesh but the accused Swaroop Singh has trespassed and occupied the possession over the said land.

5- The accused was issued summon and he accordingly appeared before the trial court.

6- The complainant in support of his case produced P.W.1, Mahant Ashok Prapauna, P.W.2, Anil Saxena and P.W.3, Hukam Singh. After the prosecution evidence was over, statement of the

accused was recorded U/S 313 Cr.P.C. and the accused did not adduce any evidence in his defence.

7- The trial Court after having heard the learned counsel for the parties and perusing the evidence on record, acquitted the accused for an offence U/S 447 I.P.C. vide impugned judgment and order dated 3.3.1997.

8- Feeling aggrieved by the aforesaid impugned judgment and order, this appeal against acquittal of the accused, has been preferred before the Allahabad High Court.

9- After creation of the new State the record of this case was transferred to this Court.

10- Perusal of the record of the trial court shows that the evidence adduced by the complainant could not establish the charge levelled against the accused. It could not be established at all that which of the portion of the disputed land has been occupied by the accused. The trial court has assessed the evidence adduced by the complainant in detail and thereafter reached to the conclusion that the prosecution has utterly failed in establishing the charge against the accused.

11- I do not find any ground for interference in the impugned judgment and order passed by the trial court acquitting the accused Swaroop Singh.

12- The appeal lacks merit and is liable to be dismissed.

13- Accordingly the appeal is dismissed.

(B.C. Kandpal, J.)

Dated: 12-05-2006

ISB